

Application No. 10/649,152  
Amendment Date: October 13, 2005  
Response to Advisory Action of September 21, 2005

PATENT  
Docket Number: 1810US01-EE

### **REMARKS**

This is in response to the Advisory Action dated September 21, 2005. Claims 16, and 43-45 have been amended to further describe spacer woven fabric (See pg. 3 of the Substitute Specification). Claims 16-18 and 20-45 are currently pending.

### **Interview Summary Record**

Applicant thanks the Examiner for the courtesy shown to Anneliese M. Seifert in the interview of August 26, 2005. The Examiner indicated that the objections to the Information Disclosure Statements in paragraphs 1, 2 and 3 of the Office Action along with the objections to the disclosure in paragraphs 5-11 would be withdrawn.

### **Objections to the Information Disclosure Statements**

The Office Action stated that the Information Disclosure Statements of August 27, 2003, March 16, 2005, and April 18, 2005 would not be entered because the relevance of non English language documents was not included. With respect to the Information Disclosure Statement of August 27, 2003, Applicant stated that the non-patent literature document Arbeitsgruppe/Technikfelder provided general information about spacer woven fabric or spacer knitted fabric. With respect to the Information Disclosure Statement of March 16, 2005, Applicant submitted English language abstracts for foreign patent documents JP09154888 and DE20213369 along with the International Search Report which shows both references were cited as part of the general state of the art. With respect to the Information Disclosure Statement of April 18, 2005, Applicant stated in the Information Disclosure Statement of August 27, 2003 that the non-patent literature document Arbeitsgruppe/Wirkerei provided general information about spacer woven fabric or spacer knitted fabric.

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In the interview of August 26, 2005, the Examiner indicated that these objections would be withdrawn.

### **Objections to the Specification**

In paragraph 10 of the Office Action, the Office Action stated that the Substitute Specification of April 18, 2005 was not entered because it did not include a statement as to the lack of new matter. In the interview of August 26, 2005, Applicant pointed out to the Examiner that a statement of lack of new matter appeared on page 2 of the Amendment submitted with the Substitute Specification. The Examiner indicated that this objection would be withdrawn. With respect to the objections to the Specification in paragraphs 5-9 and paragraph 11, these objections were dealt with in the Amendments to the Substitute Specification, and should be withdrawn when the Substitute Specification is entered. Paragraph 11 of the Office Action objected to the Amendment of April 18, 2005 because it introduced new matter into the disclosure, specifically the polyurethane coating being preferably air-permeable. In the interview of August 26, 2005, Applicant discussed with the Examiner that original claim 6 included this language and because original claim 6 was part of the Application as filed the addition of that language into the Specification is not new matter. The Examiner indicated that this objection would be withdrawn.

### **Rejections Under 35 U.S.C. §103(a)**

The Office Action rejected claims 6-18, 20-24, 26-28, 30, 33-34 and 42-45 under 35 U.S.C. §103 as unpatentable over Hemphill (U.S. Patent No. 5,150,487A) and in view of Miller (U.S. Patent No. 5,014,724). The Office Action also rejected claim 25 under 35 U.S.C. §103(a) as unpatentable over Hemphill in view of Miller, and further in view of Failor (U.S. Patent No.

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5,860,174A). Finally, the Office Action rejected claims 31, and 35-41 under 35 U.S.C. §103(a) as unpatentable over Hemphill.

Independent claims 16, 43, 44 and 45 state that the rescue underlay comprises spacer woven fabric. Applicant has now amended claims 16 and 43-45 to further describe spacer woven fabric and specifically state that the spacer woven fabric includes at least two layers spaced apart by bridge threads. Applicant has amended claims 16 and 43-45 solely to further prosecution, and not to acquiesce to the Office Action's rejection. Applicant continues to submit that Hemphill, Miller and Failor do not teach or suggest a rescue underlay that includes spacer woven fabric. The Office Action acknowledges that Hemphill does not disclose a material being a spacer woven fabric, a spacer woven fabric being knitted, or the spacer woven fabric having a thickness from about 4 millimeters to about 20 millimeters. The Office Action uses Miller to teach the spacer woven fabric feature of the present invention. However, Miller does not teach spacer woven fabric.

The combination of Hemphill and Miller teaches an evacuation restraint as taught by Hemphill where the rectangular base sheet (1) of Hemphill is covered by a fabric cover (14) as taught by Miller. To interpret that the woven fabric cover shown in Figs. 1, 2 and 3 of Miller is the same as the spacer woven fabric in independent claims 16, 43, 44, and 45 of the present application is not giving proper weight to the use of the word "spacer" in the independent claims. A spacer woven fabric is different from a traditional woven fabric and these differences are described in the specification on page 3 of the substitute specification. The shortcomings of Hemphill and Miller are not remedied by the disclosure of Failor.

With regard to claim 20, the Office Action states that the manner of forming the woven material (i.e. by knitting) is not germane to the issue of patentability of the device itself, and

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therefore the limitation has not been given patentable weight. The Applicant submits that describing the fabric as a spacer knitted fabric does not merely describe the manner in which the woven material is formed, but rather is describing a material having specific structural features to it. Page 3 of the Substitute Specification describes spacer knitted fabric starting on line 10 and states "spacer knitted fabrics have textile outer surfaces of greater width of stitch link, the outer surfaces being connected by spacer threads and held at the desired distance." Applicant respectfully requests that the element "spacer knitted fabric" be given patentable weight.

#### Summary

It is respectfully submitted that each of the pending claims is in condition for allowance, and notification to that effect is kindly requested. The Examiner is invited to contact the Applicant's primary attorney-of-record, Anneliese Seifert, at (651) 795-5661, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted,

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